

Fixing Families

The Story of the Manhattan Family Treatment Court

This is no ordinary day in court. For one thing, the jury box is overflowing with people, many of them clutching bouquets of flowers. And the gallery is packed. There are television cameras, too, plus a large table near the judge's bench full of cake and soda. But the most unique feature is the children. They're doing their best to be quiet, with their hands in their laps, but periodically one chases another down an aisle, another shouts a greeting to a familiar face, and an infant cries for a moment before a bottle or a soothing bounce restores calm.

There is no trial today, no special hearing, no stream of arraignments. Today is graduation day. The 22 people sitting in and around the jury box are parents who lost their children because they were abusing drugs. But they don't abuse drugs anymore. They've gone through drug treatment, learned parenting skills, and had vocational training as part of a unique judicial experiment, the Manhattan Family Treatment Court. They are the second group to graduate from the court, which was created in March 1998 in response to long-standing problems that many urban family courts face: parents who don't follow through on court orders to participate in drug treatment and children languishing in foster care for years on end.

The Manhattan Family Treatment Court has so far been remarkably successful, sending hundreds of parents into long-term drug treatment, building their skills as parents, and reuniting drug-free parents with their children in record time. In New York City's child welfare system, the average foster-care stay is about four years—an eternity in the life of a child. The family treatment court has reduced the average stay to about a year for children whose parents have successfully completed the court's program. In cases where parents haven't been successful, the court has taken an average of 13 months to begin termination of parental rights or permanently place the children in the home of a relative—far more quickly than in the past.

But the court is not just about numbers. It's about changing lives, a reality reflected again and again in the words of the 22 parents who graduate today. Says one: "My life has changed in that I don't live in darkness anymore. I don't feel destitute. Today I can smile from my heart and know that living a life without drugs is a beautiful life. I owe this to God and the court for giving me the opportunity to be a better mother."

This article tells the court's story—from its planning through its first two years of operation—in the words of the people who run it and participate in it. Its story provides valuable lessons for anyone grappling with some of the seemingly intractable problems that arise when drug addiction and families collide.



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The Manhattan Family Treatment Court was launched in March 1993 in response to long-standing problems that many urban family courts face: parents who don't follow through on court orders to participate in drug treatment and children who languish in foster care for years on end. The court—using a combination of rigorous judicial monitoring, sanctions and rewards, and enhanced links to supportive services—has been remarkably successful. It has sent hundreds of parents into long-term drug treatment, helped build their parental skills, and reunited drug-free parents with their children in record time. This article tells the court's story—from its planning through its first two years of operation—in the words of the people who run it and participate in it. The court's experience provides valuable lessons for anyone grappling with some of the seemingly intractable problems that arise when drug addiction and families collide. ■

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THE CRACK EPIDEMIC

The family treatment court's story begins with crack cocaine. Beginning in the early 1980s, the crack epidemic fueled a huge rise in child protective cases. By the end of the decade, neglect filings, which previously had been only a small percentage of New York City's family court caseload, had quadrupled.¹ By the mid-1990s, three-fourths of suspected child abuse and neglect cases in the city involved substance-abusing parents.²

This flood of cases "strained the resources of child protective agencies," New York State Chief Judge Judith S. Kaye said in a speech in 1997. "The highly addictive nature of crack demanded intensive services, yet gaps in service delivery and case supervision were rampant. As a result, more children entered foster care, more stayed longer, and more saw adoption as their only hope of a permanent home. The family court thus also found itself engaged in human recycling—placing a child born with a positive toxicology for cocaine in foster care one year, followed by another 'positive tox' sibling placed in care the next."³

The sad reality was that more and more children every year were going into foster care while proportionally fewer were getting out. Between 1985 and 1991 the number of children in foster care nearly tripled in New York City, from about 17,000 to 50,000, while the average length of stay in foster care leapt from 1.81 years in 1985 to 4.5 years by 1997.⁴

The protracted stays in foster care were a clear sign that the system was failing. Caseworkers from the Administration for Children's Services (ACS), the city's child protection agency, removed children from the homes of substance-abusing parents and made referrals to drug treatment. Judges backed up the caseworkers with court orders requiring parents to complete drug treatment as a condition of their children's return. Yet despite ACS's and the court's good intentions, there was little monitoring except at court appearances, which could be up to a year apart. "Caseworkers would make a referral for drug treatment and leave it up to the parent to follow up," says Judge Gloria Sosa-Lintner, a family court judge since 1988 and the founding judge of the Manhattan Family Treatment Court. "It's like telling someone who's very sick to go on their own to see the doctor. They may get there, or they may not."

Cases remained open for years with little progress toward resolution. "What had been happening with most drug cases, and most cases for that matter, was that they would drag on with long periods between court appearances, and no progress was being made toward permanency for the child," explains Ray Kimmelman, an attorney with ACS. "It was sort of potluck what would happen on any court date. The judge would ask, 'What's happening with services?' And ACS would say the mother has not complied and the judge would adjourn it for another day. Cases would drag on and on until we finally gave up and had to file a termination-of-parental-rights petition."

Judges were forced to make heart-rending decisions about a family's fate: Should a parent's rights be terminated, or should the parent be given another chance to

become sober? Should a child be freed for adoption or wait another year on the dimming hope his parent might get clean? These decisions were made more difficult when key information was missing. Often a case had been transferred among so many lawyers and caseworkers that it was impossible to know with confidence how and why parents had failed to comply with the court's orders: Was it because they were truly beyond reform, or had the system failed to get them the help they needed?

Blaming ACS, the agency charged with linking parents to drug treatment and other services, became a popular pastime. Yet the problem was clearly systemic. Everyone was stretched too thin. What was needed was a way to help respondents get off drugs and become competent parents, but that required time, money, and expertise, which the parents' attorneys, ACS caseworkers, and the court—already overwhelmed by the swollen caseload—lacked. Meanwhile, the ones who suffered the most—the children—were the least capable of doing anything about it.

THE SEARCH FOR A SOLUTION

In 1997, Chief Judge Kaye launched a statewide initiative to revamp family court. The initiative, called the "Family Justice Program," opened family court to the public and called for fundamental changes in the family court structure. As part of her plan, Judge Kaye asked the Center for Court Innovation, the court's research and development arm, to develop a new kind of family court that could better handle cases of child neglect involving charges of drug abuse. That effort began in early 1997, even before the enactment of the federal Adoption and Safe Families Act, which required states to implement regulations to speed permanency decisions for children in foster care.

The New York State Unified Court System had tackled similar problems in the past with its Center for Court Innovation. By the time it began working on the Manhattan Family Treatment Court, it had already developed a range of successful problem-solving courts, including the award-winning Midtown Community Court, which focuses on quality-of-life crimes in the heart of Manhattan, and the Brooklyn Treatment Court, which links felony drug offenders with substance abuse treatment.

At the planning table in Spring 1997 were top family court judges and their law clerks; Judge Sosa-Lintner, who had been chosen to preside over the newly formed court; court clerks; and planners from the Center for Court Innovation. But quickly the planning group expanded to include administrators and attorneys from ACS, the Juvenile Rights Division of the Legal Aid Society (which represents children), and the Assigned Counsel Panel (a collection of private attorneys paid by the court to represent parents).

Expanding the planning group proved crucial. "We realized that without the sign-on of participating agencies like Legal Aid, ACS, and the Assigned Counsel Panel, it wouldn't work. So we began the first of many, many meetings that we like to think of as true collaborative efforts," says Rosemarie Wyman, then-law clerk to Judge Michael Gage, administrative judge of the New York City family court at the time. "At first people wore their own hats, and then over time there came to be a real feeling that we are

in this together and we must work together. People became much more forthcoming about problems they anticipated with the court or other concerns they might have.”

OUTLINING THE PROBLEM

Before developing a new court model, planners carefully outlined what they felt was wrong with the current system. Among the problems they identified were:

- **Lack of information.** Most cases passed through at least several ACS caseworkers, so it was nearly impossible to know which caseworker was in charge at any given time. The system diffused responsibility among so many caseworkers that no one person could be relied on for accurate and up-to-date information.
- **Lack of accountability.** ACS or the foster-care agency with which it had contracted often did not follow up on social service referrals or see to it that visitation plans were fulfilled. Moreover, parents could give almost any excuse for why they had not entered treatment or why the treatment failed, and the court had no way to assess their veracity.
- **Delay.** Court dates could be anywhere from three months to a year apart. “Everyone was frustrated because there was always a lapse in time before we found anything out. A judge orders treatment but the parent doesn’t go. That takes a few months. Then another referral is made and for some reason that doesn’t work out. Months can go by before anyone knows,” recalls attorney Pauline Gray of the ACS Division of Legal Services.
- **Lack of services.** Although ACS was charged with making referrals to social services, overburdened caseworkers sometimes lacked the knowledge and resources to make appropriate referrals and follow through to see they were carried out. “In my experience, [ACS] caseworkers are overwhelmed and lack the skills to identify what a parent really needs and locate a program that meets those needs,” says Ron Richter, who heads up the Manhattan Juvenile Rights Division of the Legal Aid Society. “It was frustrating to me because I had clients who wanted to return home to their parents, and the parents were strung out year after year after year, and the agency would say, ‘We’re making referrals, we’re making referrals ...’ There was a devastating lack of connection between parents and appropriate services, and nobody was doing anything about it. It was maddening, it was sad.”

THE DRUG COURT MODEL

Faced with the challenge of working with drug abusers in family court, planners looked to the model of a “drug court,” a judicially supervised treatment program that has had a solid track record of helping offenders achieve sobriety. The nation’s first drug court was started in Florida in 1989, but by 1997 there were hundreds of drug courts in operation around the country.

New York City’s first drug court experiment, the Brooklyn Treatment Court, was launched in April 1996 and had already shown in its first year that it could success-

fully get felony offenders off drugs through a rigorous course of court-mandated drug treatment and close court supervision, including frequent visits to the court for drug testing and intensive case management.

Like all drug courts, the Brooklyn Treatment Court is informed by an understanding of the process of recovery from drug addiction. As such, it doesn't instantly kick participants out if they relapse. Rather, it accepts that relapse is sometimes a part of the recovery process. To teach participants that their actions have consequences, the court responds to relapses with graduated sanctions—for example, having participants spend two full days observing in court and then writing an essay about it. The court also uses rewards—applause in the courtroom, less-frequent court appearances—to encourage those who are doing well.

Interestingly, the Brooklyn Treatment Court's own experience indicated the possible need for a drug court in the family court setting. About 14 percent of the Brooklyn court's participants had already lost custody of children before entering the treatment court. The question then arose, If the parents had been placed in a drug court earlier—well before their drug abusing led to a felony drug arrest—would they have been able to keep their children?

ANSWERING A NEED

The drug court model addressed many of the problems in the family court system that planners had identified. The model improved accountability by requiring participants to return frequently to the court for drug testing, and by using sanctions and rewards. Frequent court appearances and intensive case management helped supply the court with accurate and up-to-date information. And participants received better services with the help of court caseworkers, who thoroughly assessed their needs and then referred them to appropriate services.

Placing drug-abusing parents in a drug court seemed a natural fit, yet planners weren't convinced it would work. Drug courts were created in criminal settings. Would they work as well in a family-court setting, which has different procedures and measures of success? In a criminal drug court, for instance, the ultimate reward is a clean criminal record; but in family court, the final reward is usually family reunification. Furthermore, to "graduate" from a criminal drug court, all you need do is follow the court's orders and stay clean and sober for a sufficient length of time. But in family court, "drug free" can't be the only measure. Respondents must also be what the court calls a "good-enough parent." That means having hard-to-measure qualities like parenting skills and an ability to manage anger, plus adequate housing and a source of income. There are other considerations as well, depending on the case. For instance, the court will not return a child to a home that has a history of domestic violence unless the abuser is no longer present.

One of the biggest differences between a civil family court and a criminal court is leverage. New York City's family court lacks the coercive power of a criminal drug court, which can use jail as a tool to support treatment—either as a sanction when a participant is chronically noncompliant or as punishment when a defendant fails the

program entirely and a criminal sentence is imposed. In theory, a family court judge can put respondents in jail, but as a matter of practice it's never done in New York City.

A criminal drug court can also hold defendants in jail until arraignment, which ensures that case managers can at least approach them to explain the drug court option. But in family court, respondents are not held pending their first appearance. (In practice, this has meant that 20 percent of the parents who are initially deemed eligible to participate in family treatment court never show up, so they never learn what the court has to offer.)⁵

Court Coordinator Raye Barbieri observes that family treatment court wouldn't be able to attract parents if jail were ever an option for those failing in treatment, especially if traditional family court in New York City, as a matter of judicial custom, never exercised that option. "If we exposed our voluntary participants to jail, we wouldn't have any participants," Barbieri says. Further, notes Emily Sack, a deputy director at the Center for Court Innovation, "we felt we didn't want to create a situation where they'd be facing a much larger penalty than they'd face in other parts of the family court."

Planners ultimately decided that the drug court model—adapted to a civil setting—was the right way to go. Family court may not wield jail as a "stick," but the promise of family reunification had been and would continue to be a strong incentive for parents to cooperate. Parents know that if they succeed in rehabilitation, their children will be returned to them, and if they don't, their rights as parents will be irrevocably severed. As family treatment court graduate Steven Kemp, 37, says, "When you go through what I went through—to have them physically take your kids away—that's motivation enough. You don't wish it on your worst enemy."

CRITERIA FOR PARTICIPATION

One of the early questions planners had to answer was, Whom would the court admit? Some at the table suggested accepting, at least until the court gained more experience, only the so-called cream of the crop—those clients who were new to the family court system and relatively new drug abusers, such as women who for the first time had a child born with a positive drug toxicology. But people representing the experience of the Brooklyn Treatment Court cautioned that "it isn't always first-time people who do better in treatment. The Brooklyn Treatment Court found that folks who have a more serious drug problem and have hit bottom sometimes do better," Sack explains.

Planners ultimately tried to balance these two views by picking parents who, as Judge Sosa-Lintner puts it, "had some chance of success without limiting it to those with positive tox babies." They also decided to focus on neglect cases only—as opposed to more serious cases involving abuse, which were thought to exceed the rehabilitative scope of a treatment court. The neglect allegations, of course, had to include drug abuse, but other forms of neglect, such as medical or educational neglect, could also be part of the case. They also placed other limits: no allegations of domestic violence, no overt signs of mental illness, no more than one other child already in foster care, and then not for more than three years. Planners decided that as the court gained in

experience it would broaden its criteria in phases to accept more participants and more complicated cases. (In a later phase, for instance, the court began taking cases involving allegations of domestic violence and extended the foster-care limit to five years.)

RECONCILING DIFFERENT VIEWS

The planning phase lasted a year, during which time a long list of issues was worked out, from graduation criteria to staffing to the frequency of court appearances. But the process wasn't easy. One of the biggest challenges for planners was reconciling the disparate views and interests of the many players in a family court. Unlike a criminal court, in which the primary players are the prosecution and the defense, child protective cases in family court have three "sides"—the respondent, the child, and ACS, all of whom have their own attorneys and agendas; in addition, caseworkers at ACS and at individual foster-care agencies who directly supervise foster-care placements are major players in each case.

At first, there were some who doubted that an experimental treatment court could be fair to all sides. Attorneys for the children thought the court was being "designed to go easy on the respondents," says Brad Martin, an attorney with the Juvenile Rights Division of the Legal Aid Society. "I think people from my office expected, incorrectly as it turned out, that the kids from the beginning of the case would be home with the parents, that they'd never be removed." The parents' attorneys took the opposite view: that the court would drive the case like "a runaway train toward termination and adoption," Barbieri recalls.

Parents' lawyers were also dubious of the court's value to their clients. On the one hand, supportive services to help their clients get off drugs and be reunited with their children were an obvious plus. On the other, what if the parent failed in treatment after repeated tries? The only practical defense in proceedings to terminate parental rights is that "[ACS] didn't do enough to reunite the family," explains attorney Edwinna Richardson, who represents parents. In family treatment court, however, parents were going to be given intensive assistance, "making it impossible to establish that the agency didn't work diligently," Richardson says.

With the passage of the Adoption and Safe Families Act, which required states to implement regulations to expedite permanency decisions for children in foster care, attorneys like Richardson decided that their clients needed all the help they could get. "The truth is that parents are going to have to rehabilitate quickly or they'll lose their children," Richardson observes. And after working with the court for two years, "I have reconciled myself that the best way parents will have a chance to get their children back is if they participate in the family treatment court. It's not very difficult to terminate parental rights to begin with, and under the new laws this is the only place we have a chance to have parents reunified with their children."

ADMISSION OF NEGLECT

Planners decided that respondents would have to admit to the substance abuse charges against them (typically child neglect due to substance abuse) as a requirement

for entering the treatment court. This was done not only to save time (because hearings to reach a finding of neglect could easily take more than three months), but also to increase the chances of a participant's success in treatment.

The Brooklyn Treatment Court found that placing participants in drug treatment immediately—at most a few days after arrest—increased the likelihood that they would succeed in treatment. So the Brooklyn court has participants, as a requirement of admission into the program, admit guilt upfront. Their sentences are deferred and the cases are subsequently dismissed upon successful completion of the treatment program. Failure in the program brings a prearranged jail sentence. With the plea agreement behind them, the adversarial elements of the case are eliminated and everyone can focus on the participants' recovery.

Admissions are also a clinical requirement for treatment. "Clinically you can't engage someone in the treatment process until they've admitted they have a drug problem," explains Barbieri, who worked in the Brooklyn court before she became coordinator of the family treatment court.

The idea of parents' admitting blame within days of their first court appearance was at first hard for parents' attorneys to accept—after all, no attorney wants a client to automatically cede any rights. Yet they ultimately agreed to the plan because they recognized that they could advise clients facing weak cases to decline participation in family treatment court.

Richardson and her peers on the Assigned Counsel Panel were also concerned about court caseworkers' assessing their clients' suitability for the program. What if the parents make admissions that could be used against them later if they decide not to participate in the treatment court? And what if their clients say something with criminal repercussions—what would prevent the district attorney from getting this information? The parents' attorneys finally went along when, after much negotiation, it was agreed that the assessment would be kept confidential and not be used against respondents if they opted out of the family treatment court.⁶

RESOURCE COORDINATOR

In March 1998, the Manhattan Family Treatment Court opened for business. And while its courtroom on the ninth floor of the Manhattan Family Court's black granite office tower looks much like any other in the building, it is immediately apparent to an observer that what goes on here isn't business as usual.

While in many courtrooms long pauses are customary as people shuffle through stacks of folders for information and unanswered questions lead to adjournments, Resource Coordinator Scott Brown hands everyone in the treatment court an update on each respondent on the day's calendar. The updates list the respondents' days clean, their progress in treatment, the results of drug tests, information about their drug treatment programs, the status of their visits with their children, and any issues of concern—basically all the information needed to make sure each appearance is productive.

Brown amplifies the written update by telling the judge at the beginning of each respondent's appearance the recommendations of treatment providers and court staff regarding sanctions and rewards, phase advancements, treatment, and the delivery of other services.⁷ After the hearing he updates providers and court caseworkers on the judge's decisions. "As resource coordinator, I'm the eyes and ears for the clinical team in the courtroom," Brown says.

The resource coordinator spares case managers the need to appear in court, allowing them to devote all their time to working with clients. Without the resource coordinator, case managers would be placed in the awkward position of "telling" on their clients. "When you look at the client-and-case-manager relationship, it's probably not the best thing to go to court and drop the hammer on the client or sing his praises to the judge and then six months later have to do a 180," Brown observes.

Brown also works closely with two liaisons from ACS. The liaisons are based at the court and stand in for individual ACS caseworkers during court appearances. The liaison position was created to make sure the court always has the most current information from ACS and foster-care agency caseworkers. The liaisons also convey court orders back to ACS.

ACS attorney Pauline Gray says the wealth of information in the courtroom makes her "feel more comfortable with the decisions that are made. Because of frequent court appearances, it's very obvious what the plan should be. There are no adjournments for adjournment's sake. You always have enough information to go forward."

THE JUDGE

The treatment court is in session four afternoons a week. Judge Sosa-Lintner, who juggles a caseload in traditional family court as well, was its sole presiding judge for nearly two years. Sosa-Lintner, who didn't know anything about drug courts when first assigned to the project in the preplanning stage, is now clearly used to her role as judge, cheerleader, and critic.

She adapts her tone and demeanor to each respondent, smiling as she congratulates a parent who is doing well and then a few minutes later becoming stern as she questions a mother who has apparently lied about her drug use. The mother, who tested positive for alcohol, claimed that she hadn't had a drink but admitted to taking four Tylenol 3s because of surgery-related pain. "Do you have any idea how you could take four Tylenol 3s and not test positive for opiates, but test positive for alcohol?" Judge Sosa-Lintner asks. "You better watch what you take and learn to tolerate pain more."

The judge doesn't hesitate to spell out the consequences to parents who are backsliding, pointedly reminding them that they can lose their children forever if they don't sober up. To one mother she says flatly, "You have to decide if you want your children back home or if you want to do drugs. Your kids are young, but they're not that young ... you don't want them to end up in the foster-care system, do you?"



*Judge Gloria Sosa-Lintner
of the Manhattan Family
Treatment Court*

Parents, even those who have relapsed, say they like Judge Sosa-Lintner's style. "She knows me upfront," says Lillian Harris as she waits to see the judge. Harris, who was about to be ordered into a new treatment program after a relapse, says that when she entered court, "I was just mean and arrogant" and rebelled against the court and treatment. At one point, Judge Sosa-Lintner ordered her to write an essay about her anger. "Now I'm learning to be more friendly," Harris says.

DEALING WITH RELAPSE

Despite Judge Sosa-Lintner's stern approach, she and Judge Sheldon Rand, who began sharing the treatment court's calendar with her in January 2000, understand that treatment is a long process and that relapse is, in many cases, inevitable. "The reality is that some of our clients do well for a while and then relapse. My experience has been that the judges in family treatment court tend to give the parents more chances than other family court judges because they're more knowledgeable about drug addiction," Richardson, who represents parents, says. "And they're seeing a case very frequently, so they're more familiar with each parent, whereas other judges will see parents every year or every few months at the outset of a case and won't have a personal connection."

Judge Sosa-Lintner also offers generous encouragement to those who succeed. After their first 90 days sober, she typically gives respondents a journal in which she writes a congratulatory inscription. The judge is not alone in offering congratulations, however. Sometimes, at the judge's urging, everyone in the courtroom breaks out into applause. And sometimes, on their own, courtroom players offer words of support. At the conclusion of an appearance by a mother who had trouble staying sober but now had 65 "clean" days under her belt, ACS attorney Pauline Gray told the judge, "I'm glad that she's back on track."

VISITATION

Judge Sosa-Lintner says that she isn't ordering anything different from what judges in other family courts order. What's different is that through frequent court visits she's ensuring that her orders are enforced. "I'm guaranteeing compliance, and I do it by having them in the courtroom," she says.

Judge Sosa-Lintner is concerned not only with the respondents' sobriety, but also with the status of the children. Is the foster-care placement working out? Are the children getting the supportive services they need? And, at the top of her list, are visitations being carried out as prescribed by her orders?

Unlike other family courts, family treatment court micromanages visitation schedules. "Typically, visitation schedules are left to ACS to figure out. We do it on the record because information gets lost otherwise," Barbieri explains. If there is a problem with visitation—perhaps a residential drug program does not let a participant leave for visits, or perhaps the parent is simply failing to show up—the frequent court appearances ensure that the judge promptly hears about the problem.

Statutes require a minimum of biweekly supervised visits. But the treatment court tries to move quickly to weekly visits when they are clinically appropriate. For the children's attorneys this took some getting used to. "It was a bit of an attitude shift for us," law guardian Brad Martin concedes. "They move very quickly toward long visits, unsupervised visits, weekend visits. We had to swallow hard and go along with it."

THE CLINICAL OFFICE

Much of what goes on at the family treatment court takes place three stories below the courtroom in the court's clinical office. It's there that parents are first given a thorough psychosocial assessment, both to determine eligibility and to develop an initial treatment plan. Once they are in the program, participants regularly visit the clinical office to meet with their case managers, get referrals to social services, and provide urine samples for drug tests. The clinical office also hosts a support group for parents once a week.

As part of the court's monitoring process, parents must meet with their case managers before every court appearance. In advance of these appointments, case managers talk with the off-site treatment counselors to find out how the parents are doing. The treatment providers also regularly fax over progress reports that include attendance records and drug-test results.

Parents are tested every time they come to court. Positive test results inevitably lead to discussions about what in the parents' life led them to use drugs. "The case managers probe to find out what the issues are," Brown says.

FAMILY GROUP CONFERENCING

The court hired a family facilitator in December 1999 to help involve extended families in permanency planning. "Family is broadly defined," says the facilitator, Lisa Horlick. "It can be a sister, mother, brother, father, roommate, girlfriend—basically anyone concerned about the children. Families are sometimes overlooked, and yet they're a resource for permanency planning."

The family conferences have three main goals: to identify ways to support ongoing sobriety, to develop family support for speedier reunification, and to think about ways to prevent children from later developing their own substance abuse problems. Horlick says the conferences provide "a window into the family's life outside of family court, which gives us a way to make a more accurate assessment of their needs."

In one family conference, a mother talked with her two sisters about her drug problem. The sisters didn't understand why the mother had trouble putting down drugs and were very angry that she had relapsed. Horlick talked to them about the nature of drug addiction and the role the sisters might play if the children were returned to the mother. "The family was able to offer love and support, but they also came to an understanding that they might offer respite care for the children if the mother was feeling overwhelmed," Horlick says. "That way, they could play a part in relapse prevention, be her support team."

In another conference, a mother met with her 16-year-old daughter. Horlick helped them talk about the daughter's fears about returning home and discuss what rules would be in the home, including what the girl's curfew would be and the chores she would be expected to do. Horlick also gave the daughter a questionnaire that could help the court identify services, such as summer camp or tutoring, that might help make the reunification process easier. "We want to make transitions smoother to help keep at-risk kids out of trouble and to avoid a relapse by the parent," Horlick explains.

TEAM APPROACH

The court has tried to create a team out of the court's many players. Even when the project was still in development, planners were careful to allow everyone a chance to express his or her thoughts and then move ahead only after all those involved had reached at least a tentative consensus.

The court hosts troubleshooting meetings once a month. Representatives from the court, ACS, the various attorneys, and the judges attend. Matters like changing the admission criteria, altering the court's hours, or experimenting with warrants have topped the agenda at various meetings.⁸ Because everyone is permanently assigned to the court (or, in the case of members of the Assigned Counsel Panel, spend a significant amount of their time there), they have a depth of experience that allows them to speak knowledgeably about court operations. It also helps save time in the courtroom. "You don't waste time with attorneys advocating for positions that are not reasonable," Gray observes. "We have a lot of cases every day, and having a fixed staff helps it go quickly."

For some, the idea of working so collaboratively in a courtroom was an entirely new concept. "The whole idea of a team goes against my instinct as a defense attorney," Richardson says. "Frankly, my client could care less about what the team thinks. And technically my obligation is to the client. But even though the team concept has always seemed a bit mushy to me, the reality is that the goals we all have are fairly similar—almost always it's to reunify the family."

One of the payoffs of the team approach is a more efficient calendar. Judge Sosa-Lintner has instructed attorneys to confer among themselves before each case and bring before her only the issues she needs to focus on. For example, Michael Wroblewski represented a woman with 200 days clean, who had been reunified with her children on a trial basis for 60 days when she relapsed. Wroblewski, with attorneys from ACS and Legal Aid, worked out an arrangement that allowed her to keep the children but required her to be in treatment five days a week. Thus, the issue didn't have to be debated before the judge. As it turned out, the mother got back on the sober path and ultimately graduated from the program.

PARENTS' PERSPECTIVE

For many parents family treatment court is an easy choice. "They told me what the process was and, in comparison to what I knew of from hearsay about regular court,

it was not something I had to think about. I chose family treatment court right away," explains a 35-year-old female graduate, who asked that her name be withheld. When she entered court, she was still in denial about her drug abuse, even as she admitted in court that she had a problem. "When I started, I was still thinking pot wasn't drugs," she says. ACS opened her case after she had been arrested for smoking marijuana on a street corner with her 2-year-old son at her side. "I was thinking, 'I'm going through all this for a joint?'" "

Cynthia Bruno, another graduate, had similar thoughts at the outset: "I thought the system was wrong for taking my son. He was clean, had enough clothes, and got to school on time, but then I realized it was only a matter of time before he wouldn't be clean and wouldn't have enough clothes and, God forbid, got hurt."

Like Bruno, most parents come to see that, in fact, they do have a drug problem. And while many get through treatment without a relapse, others backslide. When that happens, participants are usually glad they're in the treatment court. "I was coming for six months and my urine tests were still dirty. I was smoking crack, but they didn't give up on me," Kindel Williams, 34, says. "They always continued to encourage me to find some other way of looking at treatment."

Williams started in an outpatient program, but it didn't work. "I didn't bother to go," she says. While she was using, she got pregnant, which marked a turning point. "I knew I didn't want this child getting hooked up with the system." The court placed her in a residential parent-child program for eight months, and Williams finally sobered up. When she was discharged, the court linked her with a babysitting service so she could continue to attend the program as an outpatient. Williams has done so well that she also works at the program on a part-time basis.

Now, almost two years after entering the court, Williams is thinking about pursuing trial custody of her first child, a daughter currently living with a relative. Williams says she feels lucky that she ended up in family treatment court. In addition to giving her a number of chances, the court offered "consistency, which is what you need when you try to overcome addiction," Williams says.

Many parents say they welcome the court's close scrutiny. Steven Kemp, the 37-year-old father of a 1-year-old girl and a 4-year-old boy, says he liked the frequent court dates. "I enjoyed going to court because the judge could see I was improving every time. It gave me motivation," explains Kemp, who "graduated" from the court in March 2000.

And while program graduates say the court's support has helped them get sober, the biggest factor that helped them quit drugs, many say, was their kids. "When my kids were removed it was devastating," Lisa Heard, a graduate, says. "I swore I'd never go through that again."

CHALLENGES

Of course, the court has experienced challenges in its first two years. In some instances, family court clerks did not understand some of the screening criteria and referred inappropriate cases or failed to send appropriate ones. Despite admission

criteria against it, occasionally the court has admitted a parent with a serious mental health problem, which has posed a challenge for placement, since few programs treat both mental illness and drug addiction.

The program has also pointed up deficiencies elsewhere. While the creation of the ACS liaison has greatly improved the agency's communication with the court, there are still internal communication problems to be worked out, ACS attorney Ray Kimmelman says. "Each of our cases involves a caseworker in a private agency plus a caseworker at ACS in a field office plus the liaison who stands up in court. We still sometimes have problems with sharing information as to how visits are going and how the drug treatment program is going and if there are relatives who can take the kids. These are the systemic problems that show up in every case, but in family treatment court it shows up in even greater relief because you don't have weeks and weeks between appearances to fix the problem."

The court has also had to deal with limited resources. Because of a growing caseload in family court and the departure of a judge, the entire family court calendar in Manhattan has been readjusted. Judge Sosa-Lintner's time in the treatment court was reduced from 50 percent to 20 percent so she could take on more of the crushing caseload in regular family court. And although she was joined by Judge Rand, he, too, can give only 20 percent of his time. "In essence, we have fewer judicial resources than when we started," Barbieri says. Despite that, the court has been able to increase its caseload, and planners expect that it will soon be expanded to a full-time courtroom.

NEW ROLES

Perhaps one of the greatest challenges is the need for court players to adapt to new roles. The judges have seen the most changes in their work. Judge Sosa-Lintner has gone from being a lone figure on the bench to a team player by joining in the trouble-shooting meetings, hosting informational lunches with treatment providers, and giving presentations about the court to ACS workers, foster-care associations, and local bar associations.

Other judges sometimes criticize her for "coddling" drug abusers and running a court that is too "social work oriented," she says. "There's a perception the court is holding hands too much, but the respondents will learn a lot better if you hold their hand. We're not coddling, we're monitoring, we're keeping control of the situation. You can't fix a problem if you don't know about it for three months."

But the judges aren't the only ones in new roles. Everyone has had to make adjustments. The children's attorneys, for instance, now have more time to counsel their clients. "Our role is often to secure compliance with court orders and hold the commissioner of child welfare's feet to the fire," Ron Richter, a law guardian, says. "In family treatment court, because cases are on so frequently and because the court staff is also advocating for the family's needs, there's less of a role for us to play in terms of compliance and more of a role for us to play as legal counselor for the children. We see the children more often, and we have a greater role in picking service providers and working out visitations."

LOOKING TO THE FUTURE

The Manhattan Family Treatment Court has demonstrated that a drug court can work in the family court setting. With intense court monitoring and links to supportive services, the court has been able to rehabilitate drug-abusing parents and reunite, after its first two years, 30 respondents with 72 children. The respondents had an average of 439 days sober upon “graduation,” and the average length of time their children spent in foster care was 11 months—far less than the citywide average of four years. This represents a savings in financial as well as human terms, since the city has so far saved hundreds of thousands of dollars in foster-care expenses. By the start of its third year, the court had worked with 277 respondents representing 243 families and 453 children. With an average of 68 percent of its clients in compliance with court mandates, the court is poised to reunite many more parents with their children in the near future.

The court expects in its third year to face a new challenge: difficult decisions about termination of parental rights. During its first two years, 28 parents failed. But all the cases were clear-cut: the parents had either dropped out of the program altogether or had been unable to put together even a bare minimum of sober days. Now, as the mandates of the Adoption and Safe Families Act come into play, the court will begin to grapple with cases that fall in a grayer area, involving parents who have had longer stretches of sobriety and shown a great deal of effort but still haven’t been able to make enough progress to be reunited with their children. “There are parents who haven’t been able to put together more than two or three months of sobriety,” Barbieri explains. “What makes it difficult is the relationship with the client and the emotional investment the team has made in the person, but like the judge says, at some point you have to fish or cut bait. Ultimately, the child’s developmental clock has to prevail.”

While the Manhattan Family Treatment Court continues to develop and meet new challenges as they emerge, plans are under way to begin replicating the model in other parts of New York City’s family court, starting in the borough of Queens, where a planning team has already been named. For other jurisdictions interested in the treatment court’s model, lack of resources is a likely obstacle. Treatment courts require extra staff and more time from the schedules of judges, lawyers, and other court players because of the intensity of the case management and the frequency of court visits. But when grappling with tight budgets, jurisdictions should also weigh the financial savings from shortened stays in foster care and, even more importantly, the savings in social capital when fractured families are made whole.

For people long familiar with business as usual, the Manhattan Family Treatment Court has drawn no shortage of praise.

Edwinna Richardson, a lawyer who represents parents, calls it “a bright light in my family court life. Some of my colleagues are still skeptical and laugh at me, and think it’s not a real court, but I say, ‘I’m sorry, I have many parents who’ve gotten their kids back.’”

Ron Richter, the law guardian, calls it “a ray of sunshine in my eight years of experience in family court.” He continues: “The most compelling advantage to the whole

model is that children's attorneys are able to observe parents become an advocate for their child. You start out with a parent who doesn't know what's going on, and over time, week by week and month by month, they become transformed. You're seeing them so frequently you're actually watching the improvement before your very eyes. It makes you a lot more confident in the parents who are participating successfully, and that encourages reunification. You have a much better sense of the person because you see them so much, and you're getting updated reports constantly."

But the speakers most persuasive about the work of the treatment court are the parents themselves. A mother of two children, ages 2 and 4, wrote in her "graduation application" about the lessons she's learned since entering the court: "I have come a long way now since last year. I have maintained myself to stay sober, and I learned that no matter how much pressure you have in your life, you have to deal with it the right way and that drugs are not the answer. My children are very special to me and I love them very much. Now I think about my future with them. I'm very thankful to this court for giving me a second chance, for giving me the benefit of the doubt."

Another graduate wrote that she appreciated the court because "they want you to get your family back. I feel good that they encourage my sobriety and they support you, make you feel good about being clean and staying that way. I have an older daughter [who] was very ashamed of me and now she is very proud of me and my relationship with her is very good and I treasure that."

And still another graduate—a mom with three kids—wrote: "When my children [were] removed ... I thought I would die. I had a [hole] in my heart no other mother could possibly feel. ... I took it as an act of God stopping me from hitting rock bottom. It was a strange blessing. The only choice I had was family treatment court, because if I had gone to trial God knows how long my beautiful boys would have been in the system. ... All I can say is, thank God for family treatment court, I could not have done it without them."

1. Judith S. Kaye, *Changing Courts in Changing Times: The Need for a Fresh Look at How Our Courts Are Run*, Tobriner Lecture, Hastings Law School (Nov. 3, 1997).

2. *Id.*

3. *Id.*

4. *Id.*

5. Even though about 20 percent of people never show up, this is significantly lower than the usual family court average, which is about 35 percent. Raye Barbieri, coordinator of the Manhattan Family Treatment Court, thinks this is because ACS and the court's case managers do extra outreach to bring parents in. "We badger a lot," Barbieri says.

6. Although the district attorney could potentially seek the information by subpoena, the parents' lawyers decided not to let this possibility stand in the way of the court's creation. They vowed to protest vigorously if there was a problem. And, in two years, there hasn't been. "The reality is the family treatment court has been very protective of our clients' rights," Richardson says.

7. Participation in the treatment court is divided into three phases. Participants complete Phase One after they have gone 120 days without using drugs and have met other requirements, like eight satisfactory supervised visits with their children and regular attendance in court. Participants appear in court every two weeks in Phase One, but in Phases Two and Three, participants return to court only once a month. In the later phases, parents not only work on their sobriety but also take parenting skills classes and participate in educational or vocational programs.

8. The family treatment court briefly experimented with issuing warrants to bring in parents who missed court dates. The warrants were in effect only during court hours to ensure that parents were brought to court immediately and not held in jail. In addition, a stay was issued for five days so that the parents' attorneys could have time to track down their clients themselves. But the warrant experiment failed when the police, short of resources and occupied with what they felt were more urgent matters, failed to execute them.

NOTES